

SENATE MOTION

MR. PRESIDENT:

I move that Engrossed House Bill 1001(ss) be amended to read as follows:

1 Page 162, between lines 30 and 31, begin a new paragraph
2 and insert:

3 "SECTION 147. IC 22-4-2-12 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 12. **(a) Except**
5 **as provided in subsections (b) and (c), "base period" means**
6 the first four (4) of the last five (5) completed calendar quarters
7 immediately preceding the first day of an individual's benefit
8 period. ~~Provided,~~ However, ~~That~~ for a claim computed in
9 accordance with IC ~~1971,~~ 22-4-22, the base period shall be the
10 base period as outlined in the paying state's law.

11 **(b) Effective July 1, 2002, "base period" also includes, in**
12 **the case of an individual who does not have sufficient wages**
13 **in the base period as set forth in subsection (a), the last four**
14 **(4) completed calendar quarters immediately preceding the**
15 **first day of the benefit year of the individual if the period**
16 **qualifies the individual for benefits under this chapter.**
17 **Wages that fall within the base period of claims established**
18 **under this subsection are not available for reuse in**
19 **qualifying for a subsequent benefit year.**

20 **(c) In the case of a combined wage claim under an**
21 **arrangement approved by the United States Secretary of**
22 **Labor, the base period is the period applicable under the**
23 **unemployment compensation law of the paying state.**

24 **(d) The department shall adopt rules under IC 4-22-2 to**
25 **obtain wage information if wage information for the most**
26 **recent quarter of the base period as set forth under**
27 **subsection (b) is not available to the department from**
28 **regular quarterly reports of wage information that is**

1 **systemically accessible.**

2 SECTION 148. IC 22-4-2-12.5 IS AMENDED TO READ
3 AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 12.5. (a)
4 Notwithstanding section 12 of this chapter, for an individual
5 who during the "base period" as defined in that section has
6 received worker's compensation benefits under IC 22-3-3 for a
7 period of fifty-two (52) weeks or less, and as a result has not
8 earned sufficient wage credits to meet the requirements of
9 IC 22-4-14-5, "base period" means the first four (4) of the last
10 five (5) completed calendar quarters immediately preceding the
11 last day that the individual was able to work, as a result of the
12 individual's injury.

13 **(b) The provisions of section 12(b), 12(c), and 12(d) of**
14 **this chapter apply to this section beginning July 1, 2002.**

15 SECTION 149. IC 22-4-10.5-7, AS ADDED BY
16 P.L.290-2001, SECTION 1, IS AMENDED TO READ AS
17 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 7. (a) **After**
18 **making the deposit required by subsection (b),** the
19 department shall deposit skills 2016 training assessments paid
20 to the department under this chapter in the skills 2016 training
21 fund established by IC 22-4-24.5-1.

22 **(b) After June 30, 2002, unless the board approves a**
23 **lesser amount, the department annually shall deposit the**
24 **first four hundred fifty thousand dollars (\$450,000) in skills**
25 **2016 training assessments paid to the department under this**
26 **chapter in the special employment and training services**
27 **fund established by IC 22-4-25-1 for the training and**
28 **counseling assistance described in IC 22-4-25-1(f).**

29 SECTION 150. IC 22-4-15-1, AS AMENDED BY
30 P.L.290-2001, SECTION 7, IS AMENDED TO READ AS
31 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 1. (a) With
32 respect to benefit periods established on and after July 6, 1980,
33 an individual who has voluntarily left the individual's most
34 recent employment without good cause in connection with the
35 work or who was discharged from the individual's most recent
36 employment for just cause is ineligible for waiting period or
37 benefit rights for the week in which the disqualifying separation
38 occurred and until the individual has earned remuneration in
39 employment equal to or exceeding the weekly benefit amount
40 of the individual's claim in each of eight (8) weeks. If the
41 qualification amount has not been earned at the expiration of an
42 individual's benefit period, the unearned amount shall be carried

1 forward to an extended benefit period or to the benefit period of
2 a subsequent claim.

3 (b) When it has been determined that an individual has been
4 separated from employment under disqualifying conditions as
5 outlined in this section, the maximum benefit amount of ~~his~~ **the**
6 **individual's** current claim, as initially determined, shall be
7 reduced by twenty-five percent (25%). If twenty-five percent
8 (25%) of the maximum benefit amount is not an even dollar
9 amount, the amount of such reduction will be raised to the next
10 higher even dollar amount. The maximum benefit amount may
11 not be reduced by more than twenty-five percent (25%) during
12 any benefit period or extended benefit period.

13 (c) The disqualifications provided in this section shall be
14 subject to the following modifications:

15 (1) An individual shall not be subject to disqualification
16 because of separation from the individual's employment if:

17 (A) the individual left to accept with another employer
18 previously secured permanent full-time work which
19 offered reasonable expectation of continued covered
20 employment and betterment of wages or working
21 conditions; and thereafter was employed on said job;

22 (B) having been simultaneously employed by two (2)
23 employers, the individual leaves one (1) such employer
24 voluntarily without good cause in connection with the
25 work but remains in employment with the second
26 employer with a reasonable expectation of continued
27 employment; or

28 (C) the individual left to accept recall made by a base
29 period employer.

30 (2) An individual whose unemployment is the result of
31 medically substantiated physical disability and who is
32 involuntarily unemployed after having made reasonable
33 efforts to maintain the employment relationship shall not
34 be subject to disqualification under this section for such
35 separation.

36 (3) An individual who left work to enter the armed forces
37 of the United States shall not be subject to disqualification
38 under this section for such leaving of work.

39 (4) An individual whose employment is terminated under
40 the compulsory retirement provision of a collective
41 bargaining agreement to which the employer is a party, or
42 under any other plan, system, or program, public or private,

1 providing for compulsory retirement and who is otherwise
2 eligible shall not be deemed to have left the individual's
3 work voluntarily without good cause in connection with
4 the work. However, if such individual subsequently
5 becomes reemployed and thereafter voluntarily leaves
6 work without good cause in connection with the work, the
7 individual shall be deemed ineligible as outlined in this
8 section.

9 (5) An otherwise eligible individual shall not be denied
10 benefits for any week because the individual is in training
11 approved under Section 236(a)(1) of the Trade Act of
12 1974, nor shall the individual be denied benefits by reason
13 of leaving work to enter such training, provided the work
14 left is not suitable employment, or because of the
15 application to any week in training of provisions in this
16 law (or any applicable federal unemployment
17 compensation law), relating to availability for work, active
18 search for work, or refusal to accept work. For purposes of
19 this subdivision, the term "suitable employment" means
20 with respect to an individual, work of a substantially equal
21 or higher skill level than the individual's past adversely
22 affected employment (as defined for purposes of the Trade
23 Act of 1974), and wages for such work at not less than
24 eighty percent (80%) of the individual's average weekly
25 wage as determined for the purposes of the Trade Act of
26 1974.

27 (6) An individual is not subject to disqualification because
28 of separation from the individual's employment if:

29 (A) the employment was outside the individual's labor
30 market;

31 (B) the individual left to accept previously secured
32 full-time work with an employer in the individual's
33 labor market; and

34 (C) the individual actually became employed with the
35 employer in the individual's labor market.

36 (7) An individual who, but for the voluntary separation to
37 move to another labor market to join a spouse who had
38 moved to that labor market, shall not be disqualified for
39 that voluntary separation, if the individual is otherwise
40 eligible for benefits. Benefits paid to the spouse whose
41 eligibility is established under this subdivision shall not be
42 charged against the employer from whom the spouse

1 voluntarily separated.

2 **(8) An individual who is an affected employee (as**
 3 **defined in IC 22-4-43-1(1)) and is subject to the work**
 4 **sharing unemployment insurance program under**
 5 **IC 22-4-43 is not disqualified from participating in the**
 6 **work sharing unemployment insurance program for**
 7 **being an affected employee.**

8 As used in this subsection, "labor market" means the area
 9 surrounding an individual's permanent residence, outside which
 10 the individual cannot reasonably commute on a daily basis. In
 11 determining whether an individual can reasonably commute
 12 under this subdivision, the department shall consider the nature
 13 of the individual's job.

14 (d) "Discharge for just cause" as used in this section is
 15 defined to include but not be limited to:

16 (1) separation initiated by an employer for falsification of
 17 an employment application to obtain employment through
 18 subterfuge;

19 (2) knowing violation of a reasonable and uniformly
 20 enforced rule of an employer;

21 (3) unsatisfactory attendance, if the individual cannot
 22 show good cause for absences or tardiness;

23 (4) damaging the employer's property through willful
 24 negligence;

25 (5) refusing to obey instructions;

26 (6) reporting to work under the influence of alcohol or
 27 drugs or consuming alcohol or drugs on employer's
 28 premises during working hours;

29 (7) conduct endangering safety of self or coworkers; or

30 (8) incarceration in jail following conviction of a
 31 misdemeanor or felony by a court of competent jurisdiction
 32 or for any breach of duty in connection with work which is
 33 reasonably owed an employer by an employee.

34 SECTION 151. IC 22-4-18.3-6, AS AMENDED BY
 35 P.L.1-2002, SECTION 91, IS AMENDED TO READ AS
 36 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 6. (a) The board
 37 shall make recommendations to the unemployment insurance
 38 board for disbursements of funds from:

39 (1) the skills 2016 training fund established by
 40 IC 22-4-24.5-1; and

41 (2) the employment and training services
 42 administration fund established by IC 22-4-24-1, to the

1 **extent the disbursements:**

2 **(A) are from amounts credited to the account of this**
 3 **state pursuant to 42 U.S.C. 1103, as amended, by**
 4 **section 209 of the Temporary Extended**
 5 **Unemployment Compensation Act of 2002, which is**
 6 **Title II of the federal Job Creation and Worker**
 7 **Assistance Act of 2002, P.L.107-147; and**

8 **(B) are for the upgrade of inhouse computer systems**
 9 **used for the administration of the state's**
 10 **unemployment compensation system and public**
 11 **employment offices.**

12 The unemployment insurance board may either approve or
 13 reject, but not modify, such a recommendation.

14 (b) If the unemployment insurance board approves a
 15 disbursement recommended by the board, the department of
 16 workforce development shall so disburse the funds.

17 (c) If the unemployment insurance board rejects a
 18 recommendation of the board, the unemployment insurance
 19 board may return the recommendation to the board and may
 20 include a written statement explaining the reasons for the
 21 rejection.

22 SECTION 152. IC 22-4-24.5-1, AS AMENDED BY
 23 P.L.1-2002, SECTION 92, IS AMENDED TO READ AS
 24 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 1. (a) The skills
 25 2016 training fund is established to do the following:

26 (1) Administer the costs of the skills 2016 training
 27 program established by IC 22-4-10.5.

28 (2) Undertake any program or activity that furthers the
 29 purposes of IC 22-4-10.5.

30 (3) Refund skills 2016 training assessments erroneously
 31 collected and deposited in the fund.

32 (b) Subject to subsection (j), fifty-five percent (55%) of the
 33 money in the fund shall be allocated to the state educational
 34 institution established under IC 20-12-61. The money so
 35 allocated to that state educational institution shall be used as
 36 follows:

37 (1) An amount to be determined annually shall be allocated
 38 to the state educational institution established under
 39 IC 20-12-61 for its costs in administering the training
 40 programs described in subsection (b). However, the
 41 amount so allocated may not exceed fifteen percent (15%)
 42 of the total amount of money allocated under this

1 subsection.

2 (2) After the allocation made under subdivision (1), forty
3 percent (40%) shall be used to provide training to
4 participants in joint labor and management building trades
5 apprenticeship programs approved by the United States
6 Department of Labor's Bureau of Apprenticeship Training.

7 (3) After the allocation made under subdivision (1), forty
8 percent (40%) shall be used to provide training to
9 participants in joint labor and management industrial
10 apprenticeship programs approved by the United States
11 Department of Labor's Bureau of Apprenticeship Training.

12 (4) After the allocation made under subdivision (1), twenty
13 percent (20%) shall be used to provide training to
14 industrial employees not covered by subdivision (2).

15 (c) Subject to subsection (j), the remainder of the money in
16 the fund shall be allocated as follows:

17 (1) An amount not to exceed one million dollars
18 (\$1,000,000) shall be allocated to the department of
19 workforce development annually for technology needs of
20 the department.

21 ~~(2)~~ An amount not to exceed four hundred fifty thousand
22 dollars ~~(\$450,000)~~ shall be allocated annually for training
23 and counseling assistance under IC 22-4-14-2 provided by
24 state educational institutions (as defined in IC 20-12-0.5-1)
25 or counseling provided by the department of workforce
26 development for individuals who:

27 (A) have been unemployed for at least four ~~(4)~~ weeks;

28 (B) are not otherwise eligible for training and
29 counseling assistance under any other program; and

30 (C) are not participating in programs that duplicate
31 those programs described in IC 22-4-25-1(e).

32 Training or counseling provided under IC 22-4-14-2 does
33 not excuse the claimant from complying with the
34 requirements of IC 22-4-14-3. Eligibility for training and
35 counseling assistance under this subdivision shall not be
36 determined until after the fourth week of eligibility for
37 unemployment training compensation benefits.

38 ~~(3)~~ (2) An amount to be determined annually shall be set
39 aside for the payment of refunds from the fund.

40 ~~(4)~~ (3) The remainder of the money in the fund after the
41 allocations provided for in subsection (b) and subdivisions
42 (1) through ~~(3)~~ (2) shall be allocated to other incumbent

1 worker training programs.

2 (d) The fund shall be administered by the board. However,
3 all disbursements from the fund must be recommended by the
4 incumbent workers training board and approved by the board as
5 required by IC 22-4-18.3-6.

6 (e) The treasurer of state shall invest the money in the fund
7 not currently needed to meet the obligations of the fund in the
8 same manner as other public money may be invested. Interest
9 that accrues from these investments shall be deposited in the
10 fund.

11 (f) Money in the fund at the end of a state fiscal year does not
12 revert to the state general fund.

13 (g) The fund consists of the following:

- 14 (1) Assessments deposited in the fund.
15 (2) Earnings acquired through the use of money belonging
16 to the fund.
17 (3) Money received from the fund from any other source.
18 (4) Interest earned from money in the fund.
19 (5) Interest and penalties collected.

20 (h) All money deposited or paid into the fund is appropriated
21 annually for disbursements authorized by this section.

22 (i) Any balance in the fund does not lapse but is available
23 continuously to the department for expenditures consistent with
24 this chapter.

25 (j) If the fund ratio (as described in IC 22-4-11-3) is less than
26 or equal to ~~1.5~~ **1.0** or if the board determines that the solvency
27 of the unemployment insurance benefit fund established by
28 IC 22-4-26-1 is threatened, the funds assessed for or deposited
29 in the skills 2016 training fund shall be directed or transferred
30 to the unemployment insurance benefit fund.

31 SECTION 153. IC 22-4-25-1, AS AMENDED BY
32 P.L.290-2001, SECTION 20, IS AMENDED TO READ AS
33 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 1. (a) There is
34 created in the state treasury a special fund to be known as the
35 special employment and training services fund. All interest on
36 delinquent contributions and penalties collected under this
37 article, together with any voluntary contributions tendered as a
38 contribution to this fund **and amounts deposited as required**
39 **by IC 22-4-10.5-7(b)**, shall be paid into this fund. The money
40 shall not be expended or available for expenditure in any
41 manner which would permit their substitution for (or a
42 corresponding reduction in) federal funds which would in the

1 absence of said money be available to finance expenditures for
2 the administration of this article, but nothing in this section
3 shall prevent said money from being used as a revolving fund
4 to cover expenditures necessary and proper under the law for
5 which federal funds have been duly requested but not yet
6 received, subject to the charging of such expenditures against
7 such funds when received. The money in this fund shall be used
8 by the board for the payment of refunds of interest on
9 delinquent contributions and penalties so collected, for the
10 payment of costs of administration which are found not to have
11 been properly and validly chargeable against federal
12 grants or other funds received for or in the employment and
13 training services administration fund, on and after July 1, 1945.
14 Such money shall be available either to satisfy the obligations
15 incurred by the board directly, or by transfer by the board of the
16 required amount from the special employment and training
17 services fund to the employment and training services
18 administration fund. No expenditure of this fund shall be made
19 unless and until the board finds that no other funds are available
20 or can properly be used to finance such expenditures, except
21 that expenditures from said fund may be made for the purpose
22 of acquiring lands and buildings or for the erection of buildings
23 on lands so acquired which are deemed necessary by the board
24 for the proper administration of this article. The board shall
25 order the transfer of such funds or the payment of any such
26 obligation or expenditure and such funds shall be paid by the
27 treasurer of state on requisition drawn by the board directing the
28 auditor of state to issue the auditor's warrant therefor. Any such
29 warrant shall be drawn by the state auditor based upon vouchers
30 certified by the board or the commissioner. The money in this
31 fund is hereby specifically made available to replace within a
32 reasonable time any money received by this state pursuant to 42
33 U.S.C. 502, as amended, which, because of any action or
34 contingency, has been lost or has been expended for
35 purposes other than or in amounts in excess of those approved
36 by the bureau of employment security. The money in this fund
37 shall be continuously available to the board for expenditures in
38 accordance with the provisions of this section and shall not
39 lapse at any time or be transferred to any other fund, except as
40 provided in this article. Nothing in this section shall be
41 construed to limit, alter, or amend the liability of the state
42 assumed and created by IC 22-4-28, or to change the procedure

1 prescribed in IC 22-4-28 for the satisfaction of such liability,
2 except to the extent that such liability may be satisfied by and
3 out of the funds of such special employment and training
4 services fund created by this section.

5 (b) The board, subject to the approval of the budget agency
6 and governor, is authorized and empowered to use all or any
7 part of the funds in the special employment and training
8 services fund for the purpose of acquiring suitable office space
9 for the department by way of purchase, lease, contract, or in any
10 part thereof to purchase land and erect thereon such buildings
11 as the board determines necessary or to assist in financing the
12 construction of any building erected by the state or any of its
13 agencies wherein available space will be provided for the
14 department under lease or contract between the department and
15 the state or such other agency. The commissioner may transfer
16 from the employment and training services administration fund
17 to the special employment and training services fund amounts
18 not exceeding funds specifically available to the commissioner
19 for that purpose equivalent to the fair, reasonable rental value
20 of any land and buildings acquired for its use until such time as
21 the full amount of the purchase price of such land and buildings
22 and such cost of repair and maintenance thereof as was
23 expended from the special
24 employment and training services fund has been returned to
25 such fund.

26 (c) The board may also transfer from the employment and
27 training services administration fund to the special employment
28 and training services fund amounts not exceeding funds
29 specifically available to the commissioner for that purpose
30 equivalent to the fair, reasonable rental value of space used by
31 the department in any building erected by the state or any of its
32 agencies until such time as the department's proportionate
33 amount of the purchase price of such building and the
34 department's proportionate amount of such cost of repair and
35 maintenance thereof as was expended from the special
36 employment and training services fund has been returned to
37 such fund.

38 (d) Whenever the balance in the special employment and
39 training services fund is deemed excessive by the board, the
40 board shall order payment into the unemployment insurance
41 benefit fund of the amount of the special employment and
42 training services fund deemed to be excessive.

1 (e) Subject to the approval of the board, the commissioner
 2 may use not more than five million dollars (\$5,000,000) during
 3 a program year for training provided by the state educational
 4 institution established under IC 20-12-61 to participants in joint
 5 labor and management apprenticeship programs approved by
 6 the United States Department of Labor's Bureau of
 7 Apprenticeship Training. Of the money allocated for training
 8 programs under this subsection, fifty percent (50%) is
 9 designated for industrial programs, and the remaining fifty
 10 (50%) percent is designated for building trade programs.

11 (f) **The commissioner shall allocate an amount not to**
 12 **exceed four hundred fifty thousand dollars (\$450,000)**
 13 **annually for training and counseling assistance under**
 14 **IC 22-4-14-2 provided by state educational institutions (as**
 15 **defined in IC 20-12-0.5-1) or counseling provided by the**
 16 **department of workforce development for individuals who:**

- 17 (1) **have been unemployed for at least four (4) weeks;**
- 18 (2) **are not otherwise eligible for training and**
- 19 **counseling assistance under any other program; and**
- 20 (3) **are not participating in programs that duplicate**
- 21 **those programs described in subsection (e).**

22 **Training or counseling provided under IC 22-4-14-2 does**
 23 **not excuse the claimant from complying with the**
 24 **requirements of IC 22-4-14-3. Eligibility for training and**
 25 **counseling assistance under this subdivision shall not be**
 26 **determined until after the fourth week of eligibility for**
 27 **unemployment training compensation benefits. The training**
 28 **and counseling assistance programs funded by this**
 29 **subsection must be approved by the United States**
 30 **Department of Labor's Bureau of Apprenticeship Training.**

31 SECTION 154. IC 22-4-26-5 IS AMENDED TO READ AS
 32 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 5. (a) Money
 33 credited to the account of this state in the unemployment trust
 34 fund by the Secretary of the Treasury of the United States
 35 pursuant to 42 U.S.C. 1103, as amended, may be requisitioned
 36 and used for the payment of expenses incurred for the
 37 administration of this article and public employment offices
 38 pursuant to a specific appropriation by the general assembly,
 39 provided that the expenses are incurred and the money is
 40 requisitioned after the enactment of an appropriation statute
 41 which:

- 42 (1) specifies the purposes for which such money is

1 appropriated and the amounts appropriated therefor;
2 (2) **except as provided in subsection (e)**, limits the period
3 within which such money may be obligated to a period
4 ending not more than two (2) years after the date of the
5 enactment of the appropriation statute; and
6 (3) limits the total amount which may be obligated during
7 a twelve (12) month period beginning on July 1 and ending
8 on the next June 30 to an amount which does not exceed
9 the amount by which:

10 (A) the aggregate of the amounts credited to the account
11 of this state pursuant to 42 U.S.C. 1103, as amended,
12 during such twelve (12) month period and the
13 twenty-four (24) preceding twelve (12) month periods;
14 exceeds

15 (B) the aggregate of the amounts obligated by this state
16 pursuant to this section and amounts paid out for
17 benefits and charged against the amounts credited to the
18 account of this state during such twenty-five (25) twelve
19 (12) month periods.

20 (b) For the purposes of this section, amounts obligated by
21 this state during any such twelve (12) month period shall be
22 charged against equivalent amounts which were first credited
23 and which have not previously been so charged, except that no
24 amount obligated for administration of this article and public
25 employment offices during any such twelve (12) month period
26 may be charged against any amount credited during such twelve
27 (12) month period earlier than the fourteenth preceding such
28 twelve (12) month period.

29 (c) Amounts credited to the account of this state pursuant to
30 42 U.S.C. 1103, as amended, may not be obligated except for
31 the payment of cash benefits to individuals with respect to their
32 unemployment and for the payment of expenses incurred for the
33 administration of this article and public employment offices
34 pursuant to this section.

35 (d) Money appropriated as provided in this section for the
36 payment of expenses incurred for the administration of this
37 article and public employment offices pursuant to this section
38 shall be requisitioned as needed for payment of obligations
39 incurred under such appropriation and upon requisition shall be
40 deposited in the employment and training services
41 administration fund but, until expended, shall remain a part of
42 the unemployment insurance benefit fund. The commissioner

1 shall maintain a separate record of the deposit, obligation,
2 expenditure, and return of funds so deposited. If any money so
3 deposited is for any reason not to be expended for the purpose
4 for which it was appropriated, or if it remains unexpended at the
5 end of the period specified by the statute appropriating such
6 money, it shall be withdrawn and returned to the Secretary of
7 the Treasury of the United States for credit to this state's
8 account in the unemployment trust fund.

9 (e) **This subsection applies only to amounts credited to**
10 **the account of this state pursuant to 42 U.S.C. 1103, as**
11 **amended, by section 209 of the Temporary Extended**
12 **Unemployment Compensation Act of 2002, which is Title II**
13 **of the federal Job Creation and Worker Assistance Act of**
14 **2002, P.L.107-147. Amounts appropriated for the payment**
15 **of expenses incurred in the administration of this article**
16 **and public employment offices pursuant to this section are**
17 **not required to be obligated within the two (2) year period**
18 **described in subsection (a)(2). Disbursements of amounts**
19 **appropriated for the upgrade of the department of**
20 **workforce development's inhouse computer system used in**
21 **administering the state's unemployment compensation**
22 **system and public employment offices are subject to the**
23 **recommendation of the incumbent worker training board**
24 **and the approval of the unemployment insurance board as**
25 **required by IC 22-4-18.3-6.**

26 SECTION 155. IC 22-4-43 IS ADDED TO THE INDIANA
27 CODE AS A NEW CHAPTER TO READ AS FOLLOWS
28 [EFFECTIVE JULY 1, 2002]:

29 **Chapter 43. Work Sharing**

30 **Sec. 1. The following definitions apply throughout this**
31 **chapter:**

32 (1) **"Affected employee" means an individual who has**
33 **been continuously on the payroll of an affected unit for**
34 **at least three (3) months before the employing unit**
35 **submits a work sharing plan.**

36 (2) **"Affected unit" means a specific plant, department,**
37 **shift, or other definable unit of an employing unit:**

38 (A) **that has at least two (2) employees; and**

39 (B) **to which an approved work sharing plan applies.**

40 (3) **"Approved work sharing plan" means a plan that**
41 **satisfies the purpose set forth in section 2 of this**
42 **chapter and has the approval of the commissioner.**

- 1 **(4) "Commissioner" refers to the commissioner of**
- 2 **workforce development appointed under IC 22-4.1-3-1.**
- 3 **(5) "Employee association" means an association that**
- 4 **is a party to a collective bargaining agreement under**
- 5 **which it may negotiate a work sharing plan.**
- 6 **(6) "Normal weekly work hours" means the lesser of:**
- 7 **(A) the number of hours in a week that an employee**
- 8 **customarily works for the regular employing unit;**
- 9 **or**
- 10 **(B) forty (40) hours.**
- 11 **(7) "Work sharing benefit" means benefits payable to**
- 12 **an affected employee for work performed under an**
- 13 **approved work sharing plan, including benefits**
- 14 **payable to a federal civilian employee or former**
- 15 **member of the armed forces under 5 U.S.C. 8500 et**
- 16 **seq., but does not include benefits that are otherwise**
- 17 **payable under this article.**
- 18 **(8) "Work sharing employer" means an employing unit**
- 19 **or employer association for which a work sharing plan**
- 20 **has been approved.**
- 21 **(9) "Work sharing plan" means a plan of an employing**
- 22 **unit or employer association under which:**
- 23 **(A) normal weekly work hours of affected employees**
- 24 **are reduced; and**
- 25 **(B) affected employees share the work that remains**
- 26 **after the reduction.**
- 27 **Sec. 2. The work sharing unemployment insurance**
- 28 **program seeks to:**
- 29 **(1) preserve the jobs of employees and the work force**
- 30 **of an employer during lowered economic activity by**
- 31 **reduction in work hours or workdays rather than by a**
- 32 **layoff of some employees while other employees**
- 33 **continue their normal weekly work hours or workdays;**
- 34 **and**
- 35 **(2) ameliorate the adverse effect of reduction in**
- 36 **business activity by providing benefits for the part of**
- 37 **the normal weekly work hours or workdays in which**
- 38 **an employee does not work.**
- 39 **Sec. 3. An employing unit or employee association that**
- 40 **wishes to participate in the work sharing unemployment**
- 41 **insurance program shall submit to the commissioner a**
- 42 **written work sharing plan that the employing unit or**

- 1 representative of the employee association has signed.
- 2 **Sec. 4. (a) Within fifteen (15) days after receipt of a work**
- 3 **sharing plan, the commissioner shall give written approval**
- 4 **or disapproval of the plan to the employing unit or**
- 5 **employee association.**
- 6 **(b) The decision of the commissioner to disapprove a**
- 7 **work sharing plan is final and may not be appealed.**
- 8 **(c) An employing unit or employee association may**
- 9 **submit a new work sharing plan not less than fifteen (15)**
- 10 **days after disapproval of a work sharing plan.**
- 11 **Sec. 5. The commissioner shall approve a work sharing**
- 12 **plan that meets the following requirements:**
- 13 **(1) The work sharing plan must apply to:**
- 14 **(A) at least ten percent (10%) of the employees in an**
- 15 **affected unit; or**
- 16 **(B) at least twenty (20) employees in an affected unit**
- 17 **in which the work sharing plan applies equally to all**
- 18 **affected employees.**
- 19 **(2) The normal weekly work hours of affected**
- 20 **employees in the affected unit shall be reduced by at**
- 21 **least ten percent (10%) but the reduction may not**
- 22 **exceed fifty percent (50%) unless the fifty percent**
- 23 **(50%) limit is waived by the commissioner.**
- 24 **Sec. 6. A work sharing plan must:**
- 25 **(1) identify the affected unit;**
- 26 **(2) identify each employee in the affected unit by:**
- 27 **(A) name;**
- 28 **(B) Social Security number; and**
- 29 **(C) any other information that the commissioner**
- 30 **requires;**
- 31 **(3) specify an expiration date that is not more than six**
- 32 **(6) months after the effective date of the work sharing**
- 33 **plan;**
- 34 **(4) specify the effect that the work sharing plan will**
- 35 **have on the fringe benefits of each employee in the**
- 36 **affected unit, including:**
- 37 **(A) health insurance for hospital, medical, dental,**
- 38 **and similar services;**
- 39 **(B) retirement benefits under benefit pension plans**
- 40 **as defined in the federal Employee Retirement**
- 41 **Security Act (29 U.S.C. 1001 et seq.);**
- 42 **(C) holiday and vacation pay;**

- 1 (D) sick leave; and
- 2 (E) similar advantages;
- 3 (5) certify that:
 - 4 (A) each affected employee has been continuously on
 - 5 the payroll of the employing unit for three (3)
 - 6 months immediately before the date on which the
 - 7 employing unit or employer association submits the
 - 8 work sharing plan; and
 - 9 (B) the total reduction in normal weekly work hours
 - 10 is in place of layoffs that would have:
 - 11 (i) affected at least the number of employees
 - 12 specified in section 5(1) of this chapter; and
 - 13 (ii) would have resulted in an equivalent reduction
 - 14 in work hours; and
- 15 (6) contain the written approval of:
 - 16 (A) the employee association agent for each
 - 17 agreement that covers any affected employee in the
 - 18 affected unit; or
 - 19 (B) if there is not an agent, a representative of the
 - 20 employees or employee association in the affected
 - 21 unit.

22 **Sec. 7. If a work sharing plan serves the work sharing**
 23 **employer as a transitional step to permanent staff**
 24 **reduction, the work sharing plan must contain a**
 25 **reemployment assistance plan for each affected employee**
 26 **that the work sharing employer develops with the**
 27 **commissioner.**

- 28 **Sec. 8. The work sharing employer shall agree to:**
- 29 (1) submit reports that are necessary to administer the
 - 30 work sharing plan; and
 - 31 (2) allow the department to have access to all records
 - 32 necessary to:
 - 33 (A) verify the work sharing plan before its approval;
 - 34 and
 - 35 (B) monitor and evaluate the application of the work
 - 36 sharing plan after its approval.

37 **Sec. 9. (a) An approved work sharing plan may be**
 38 **modified if the modification meets the requirements for**
 39 **approval under section 6 of this chapter and the**
 40 **commissioner approves the modifications.**

41 **(b) An employing unit may add an employee to a work**
 42 **sharing plan when the employee has been continuously on**

1 the payroll for at least three (3) months.

2 (c) An approved modification of a work sharing plan
3 may not change the expiration date.

4 Sec. 10. (a) An affected employee is eligible under section
5 12 of this chapter to receive work sharing benefits for each
6 week in which the commissioner determines that the
7 affected employee is:

8 (1) able to work; and

9 (2) available for more hours of work or full-time work
10 for the work sharing employer.

11 (b) An affected employee who otherwise is eligible may
12 not be denied work sharing benefits for lack of effort to
13 secure work as set forth in IC 22-4-14-3 or for failure to
14 apply for available suitable work as set forth in
15 IC 22-4-15-2 from a person other than the work sharing
16 employer.

17 (c) An affected employee shall apply for benefits under
18 IC 22-4-17-1.

19 (d) An affected employee who otherwise is eligible for
20 benefits is:

21 (1) considered to be unemployed for the purpose of the
22 work sharing unemployment insurance program; and

23 (2) not subject to the requirements of IC 22-4-14-2.

24 Sec. 11. The weekly work sharing unemployment
25 compensation benefit due to an affected worker is
26 determined in STEP FIVE of the following formula:

27 STEP ONE: Determine the weekly benefit that would
28 be due to the affected employee under IC 22-4-12-4.

29 STEP TWO: Subtract the number of the employee's
30 work hours under the approved work sharing plan
31 from the number of the employee's normal work hours.

32 STEP THREE: Divide the STEP TWO result by the
33 number of the employee's normal work hours.

34 STEP FOUR: Multiply the number determined in
35 STEP ONE by the amount determined in STEP
36 THREE.

37 STEP FIVE: If the product determined under STEP
38 FOUR is not a multiple of one dollar (\$1), round down
39 to the nearest lower multiple of one dollar (\$1).

40 Sec. 12. (a) An affected employee is eligible to receive not
41 more than twenty-six (26) weeks of work sharing benefits
42 during each benefit year.

1 (b) The total amount of benefits payable under
2 IC 22-4-12-4 and work sharing benefits payable under this
3 chapter may not exceed the total payable for the benefit
4 year under IC 22-4-12-4(a).

5 Sec. 13. The board shall adopt rules under IC 4-22-2
6 applicable to partially unemployed workers for determining
7 their weekly benefit amount due under this chapter, subject
8 to IC 22-4-12-5(b).

9 Sec. 14. During a week in which an affected employee
10 who otherwise is eligible for benefits does not work for the
11 work sharing employer:

- 12 (1) the individual shall be paid benefits in accordance
- 13 with this chapter; and
- 14 (2) the week does not count as a week for which a work
- 15 sharing benefit is received.

16 Sec. 15. During a week in which an employee earns wages
17 under an approved work sharing plan and other wages, the
18 work sharing benefit shall be reduced by the same
19 percentage that the combined wages are of wages for
20 normal weekly work hours if the other wages:

- 21 (1) exceed the wages earned under the approved work
- 22 sharing plan; and
- 23 (2) do not exceed ninety percent (90%) of the wages
- 24 that the individual earns for normal weekly work
- 25 hours.

26 This computation applies regardless of whether the
27 employee earned the other wage from the work sharing
28 employer or other employer.

29 Sec. 16. While an affected employee applies for or
30 receives work sharing benefits, the affected employee is not
31 eligible for:

- 32 (1) extended benefits under IC 22-4-12-4; or
- 33 (2) supplemental federal unemployment compensation.

34 Sec. 17. The commissioner may revoke approval of an
35 approved work sharing plan for good cause, including:

- 36 (1) conduct or an occurrence that tends to defeat the
- 37 intent and effective operation of the approved work
- 38 sharing plan;
- 39 (2) failure to comply with an assurance in the approved
- 40 work sharing plan;
- 41 (3) unreasonable revision of a productivity standard of
- 42 the affected unit; and

1 **(4) violation of a criterion on which the commissioner**
 2 **based the approval of the work sharing plan."**

3 Page 229, between lines 32 and 33, begin a new paragraph
 4 and insert:

5 "SECTION 203. [EFFECTIVE JULY 1, 2002] (a)
 6 **Notwithstanding IC 22-4-2-12, as amended by this act, the**
 7 **department of workforce development shall carry out the**
 8 **duties imposed upon it under IC 22-4-2-12 under interim**
 9 **written guidelines approved by the commissioner of the**
 10 **department of workforce development.**

11 (b) This SECTION expires on the earlier of the
 12 following:

13 (1) The date rules are adopted under IC 22-4-2-12, as
 14 amended by this act.

15 (2) December 31, 2003.

16 SECTION 204. [EFFECTIVE JULY 1, 2002] (a)
 17 **Notwithstanding IC 22-4-43-13, as added by this act, the**
 18 **unemployment insurance board shall carry out the duties**
 19 **imposed upon it under IC 22-4-43-13, as added by this act,**
 20 **under interim written guidelines approved by the**
 21 **commissioner of workforce development.**

22 (b) This SECTION expires on the earlier of the
 23 following:

24 (1) The date rules are adopted under IC 22-4-43-13, as
 25 added by this act.

26 (2) December 31, 2003.

27 SECTION 205. [EFFECTIVE JULY 1, 2002] **There is**
 28 **appropriated to the department of workforce development**
 29 **fifty million dollars (\$50,000,000) from amounts credited to**
 30 **the account of this state pursuant to 42 U.S.C. 1103, as**
 31 **amended, by section 209 of the Temporary Extended**
 32 **Unemployment Compensation Act of 2002, which is Title II**
 33 **of the federal Job Creation and Worker Assistance Act of**
 34 **2002, P.L.107-147, for the department's use in upgrading**
 35 **the department's inhouse computer system used in**
 36 **administering the state's unemployment compensation**
 37 **system and public employment offices beginning July 1,**
 38 **2002, and ending June 30, 2007."**

- 1 Renumber all SECTIONS consecutively.
- 2 (Reference is to EHB 1001(ss) as printed June 13, 2002.)

Senator CRAYCRAFT